



Senate

General Assembly

File No. 658

February Session, 2004

Substitute Senate Bill No. 586

Senate, April 26, 2004

The Committee on Appropriations reported through SEN. HARP of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE STATE ETHICS, ELECTIONS ENFORCEMENT AND FREEDOM OF INFORMATION COMMISSIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 1-80 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (a) There shall be a State Ethics Commission consisting of [seven]
5 nine members to be appointed with the advice and consent of the
6 General Assembly. One member shall be appointed by the speaker of
7 the House, one member by the president pro tempore of the Senate,
8 one member by the majority leader of the Senate, one member by the
9 minority leader of the Senate, one member by the majority leader of
10 the House of Representatives, one member by the minority leader of
11 the House of Representatives and three members by the Governor.
12 Members of the commission shall serve for four-year terms which shall
13 commence on October first, except that members first appointed shall

14 have the following terms: The Governor shall appoint two members
15 for a term of three years and one member for a term of four years; the
16 majority leader of the House or Representatives, minority leader of the
17 House of Representatives and the speaker of the House of
18 Representatives shall each appoint one member for a term of two
19 years; the president pro tempore of the Senate, the majority leader of
20 the Senate and the minority leader of the Senate shall each appoint one
21 member for a term of four years. No individual shall be appointed to
22 more than one four-year term as a member of such commission,
23 provided that members may continue in office until a successor has
24 been appointed and qualified. No more than ~~[four]~~ five members shall
25 be members of the same political party. The members appointed by the
26 majority leader of the Senate and the majority leader of the House of
27 Representatives shall be selected from a list of nominees proposed by a
28 citizen group having an interest in ethical government. The majority
29 leader of the Senate and the majority leader of the House of
30 Representatives shall each determine the citizen group from which
31 each will accept such nominations. On and after October 1, 2004, one
32 member appointed by the Governor shall be selected from a list of
33 nominees proposed by a citizen group having an interest in ethical
34 government. The Governor shall determine the citizen group from
35 which the Governor will accept such nominations.

36 Sec. 2. Subsection (d) of section 1-80 of the general statutes, as
37 amended by section 1 of public act 03-19, is repealed and the following
38 is substituted in lieu thereof (*Effective from passage*):

39 (d) The commission shall elect a chairperson who shall, except as
40 provided in subsection (b) of section 1-82 and subsection (b) of section
41 1-93, preside at meetings of the commission and a vice-chairperson to
42 preside in the absence of the chairperson. ~~[Five]~~ Seven members of the
43 commission shall constitute a quorum. Except as provided in
44 subdivision (3) of subsection (a) of section 1-81, subsections (a) and (b)
45 of section 1-82, subsection (b) of section 1-88, subdivision (5) of section
46 1-92, subsections (a) and (b) of section 1-93 and subsection (b) of
47 section 1-99, a majority vote of the quorum shall be required for action

48 of the commission. The chairperson or any [four] five members may
49 call a meeting.

50 Sec. 3. Subdivision (3) of section 1-81 of the general statutes is
51 repealed and the following is substituted in lieu thereof (*Effective from*
52 *passage*):

53 (3) Upon the concurring vote of [four] five of its members, issue
54 advisory opinions with regard to the requirements of this part, upon
55 the request of any person subject to the provisions of this part, and
56 publish such advisory opinions in the Connecticut Law Journal.
57 Advisory opinions rendered by the commission, until amended or
58 revoked, shall be binding on the commission and shall be deemed to
59 be final decisions of the commission for purposes of section 1-87. Any
60 advisory opinion concerning the person who requested the opinion
61 and who acted in reliance thereon, in good faith, shall be binding upon
62 the commission, and it shall be an absolute defense in any criminal
63 action brought under the provisions of this part, that the accused acted
64 in reliance upon such advisory opinion.

65 Sec. 4. Subsections (a) and (b) of section 1-82 of the general statutes
66 are repealed and the following is substituted in lieu thereof (*Effective*
67 *from passage*):

68 (a) (1) Upon the complaint of any person on a form prescribed by
69 the commission, signed under penalty of false statement, or upon its
70 own complaint, the commission shall investigate any alleged violation
71 of this part. Not later than five days after the receipt or issuance of
72 such complaint, the commission shall provide notice of such receipt or
73 issuance and a copy of the complaint by registered or certified mail to
74 any respondent against whom such complaint is filed and shall
75 provide notice of the receipt of such complaint to the complainant.
76 When the commission undertakes an evaluation of a possible violation
77 of this part prior to the filing of a complaint by the commission, the
78 subject of the evaluation shall be notified within five business days
79 after a commission staff member's first contact with a third party
80 concerning the matter.

81 (2) In the conduct of its investigation of an alleged violation of this
82 part, the commission shall have the power to hold hearings, administer
83 oaths, examine witnesses, receive oral and documentary evidence,
84 subpoena witnesses under procedural rules adopted by the
85 commission as regulations in accordance with the provisions of
86 chapter 54 to compel attendance before the commission and to require
87 the production for examination by the commission of any books and
88 papers which the commission deems relevant in any matter under
89 investigation or in question. In the exercise of such powers, the
90 commission may use the services of the state police, who shall provide
91 the same upon the commission's request. The commission shall make a
92 record of all proceedings conducted pursuant to this subsection. Any
93 witness summoned before the commission shall receive the witness fee
94 paid to witnesses in the courts of this state. During the investigation
95 the respondent shall have the right to appear and be heard and to offer
96 any information which may tend to clear him of probable cause to
97 believe he has violated any provision of this part. The respondent shall
98 also have the right to be represented by legal counsel and to examine
99 and cross-examine witnesses. Not later than ten days prior to the
100 commencement of any hearing conducted pursuant to this subsection,
101 the commission shall provide the respondent with a list of its intended
102 witnesses. The commission shall make no finding that there is
103 probable cause to believe the respondent is in violation of any
104 provision of this part except upon the concurring vote of [four] five of
105 its members.

106 (b) If a preliminary investigation indicates that probable cause exists
107 for the violation of a provision of this part, the commission shall
108 initiate hearings to determine whether there has been a violation of
109 this part. A judge trial referee, who shall be assigned by the Chief
110 Court Administrator and who shall be compensated in accordance
111 with section 52-434 out of funds available to the commission, shall
112 preside over such hearing and shall rule on all matters concerning the
113 application of the rules of evidence, which shall be the same as in
114 judicial proceedings. The trial referee shall have no vote in any
115 decision of the commission. All hearings of the commission held

116 pursuant to this subsection shall be open. At such hearing the
117 commission shall have the same powers as under subsection (a) of this
118 section and the respondent shall have the right to be represented by
119 legal counsel, the right to compel attendance of witnesses and the
120 production of books, documents, records and papers and to examine
121 and cross-examine witnesses. Not later than ten days prior to the
122 commencement of any hearing conducted pursuant to this subsection,
123 the commission shall provide the respondent with a list of its intended
124 witnesses. The judge trial referee shall, while engaged in the discharge
125 of his duties as provided in this subsection, have the same authority as
126 is provided in section 51-35 over witnesses who refuse to obey a
127 subpoena or to testify with respect to any matter upon which such
128 witness may be lawfully interrogated, and may commit any such
129 witness for contempt for a period no longer than thirty days. The
130 commission shall make a record of all proceedings pursuant to this
131 subsection. The commission shall find no person in violation of any
132 provision of this part except upon the concurring vote of [five] seven
133 of its members. Not later than fifteen days after the public hearing
134 conducted in accordance with this subsection, the commission shall
135 publish its finding and a memorandum of the reasons therefor. Such
136 finding and memorandum shall be deemed to be the final decision of
137 the commission on the matter for the purposes of chapter 54. The
138 respondent, if aggrieved by the finding and memorandum, may
139 appeal therefrom to the Superior Court in accordance with the
140 provisions of section 4-183.

141 Sec. 5. Subsection (b) of section 1-88 of the general statutes is
142 repealed and the following is substituted in lieu thereof (*Effective from*
143 *passage*):

144 (b) Notwithstanding the provisions of subsection (a) of this section,
145 the commission may, after a hearing conducted in accordance with
146 sections 4-176e to 4-184, inclusive, upon the concurring vote of [five]
147 seven of its members, impose a civil penalty not to exceed ten dollars
148 per day upon any individual who fails to file any report, statement or
149 other information as required by this part. Each distinct violation of

150 this subsection shall be a separate offense and in case of a continued
151 violation, each day thereof shall be deemed a separate offense. In no
152 event shall the aggregate penalty imposed for such failure to file
153 exceed two thousand dollars.

154 Sec. 6. Subdivision (5) of section 1-92 of the general statutes is
155 repealed and the following is substituted in lieu thereof (*Effective from*
156 *passage*):

157 (5) Upon the concurring vote of [four] five of its members, issue
158 advisory opinions with regard to the requirements of this part, upon
159 the request of any person, subject to the provisions of this part, and
160 publish such advisory opinions in the Connecticut Law Journal.
161 Advisory opinions rendered by the commission, until amended or
162 revoked, shall be binding on the commission and shall be deemed to
163 be final decisions of the commission for purposes of section 1-98. Any
164 advisory opinion concerning any person subject to the provisions of
165 this part who requested the opinion and who acted in reliance thereon,
166 in good faith, shall be binding upon the commission, and it shall be an
167 absolute defense in any criminal action brought under the provisions
168 of this part that the accused acted in reliance upon such advisory
169 opinion.

170 Sec. 7. Subsections (a) and (b) of section 1-93 of the general statutes
171 are repealed and the following is substituted in lieu thereof (*Effective*
172 *from passage*):

173 (a) (1) Upon the complaint of any person on a form prescribed by
174 the commission, signed under penalty of false statement, or upon its
175 own complaint, the commission shall investigate any alleged violation
176 of this part. Not later than five days after the receipt or issuance of
177 such complaint, the commission shall provide notice of such receipt or
178 issuance and a copy of the complaint by registered or certified mail to
179 any respondent against whom such complaint is filed and shall
180 provide notice of the receipt of such complaint to the complainant.
181 When the commission undertakes an evaluation of a possible violation
182 of this part prior to the filing of a complaint by the commission, the

183 subject of the evaluation shall be notified within five business days
184 after a commission staff member's first contact with a third party
185 concerning the matter.

186 (2) In the conduct of its investigation of an alleged violation of this
187 part, the commission shall have the power to hold hearings, administer
188 oaths, examine witnesses, receive oral and documentary evidence,
189 subpoena witnesses under procedural rules adopted by the
190 commission as regulations in accordance with the provisions of
191 chapter 54 to compel attendance before the commission and to require
192 the production for examination by the commission of any books and
193 papers which the commission deems relevant in any matter under
194 investigation or in question. In the exercise of such powers, the
195 commission may use the services of the state police, who shall provide
196 the same upon the commission's request. The commission shall make a
197 record of all proceedings conducted pursuant to this subsection. Any
198 witness summoned before the commission shall receive the witness fee
199 paid to witnesses in the courts of this state. The respondent shall have
200 the right to appear and be heard and to offer any information which
201 may tend to clear him of probable cause to believe he has violated any
202 provision of this part. The respondent shall also have the right to be
203 represented by legal counsel and to examine and cross-examine
204 witnesses. Not later than ten days prior to the commencement of any
205 hearing conducted pursuant to this subsection, the commission shall
206 provide the respondent with a list of its intended witnesses. The
207 commission shall make no finding that there is probable cause to
208 believe the respondent is in violation of this part, except upon the
209 concurring vote of [four] five of its members.

210 (b) If a preliminary investigation indicates that probable cause exists
211 for the violation of a provision of this part, the commission shall
212 initiate hearings to determine whether there has been a violation of
213 this part. A judge trial referee, who shall be assigned by the Chief
214 Court Administrator and who shall be compensated in accordance
215 with section 52-434 out of funds available to the commission, shall
216 preside over such hearing and shall rule on all matters concerning the

217 application of the rules of evidence, which shall be the same as in
218 judicial proceedings. The trial referee shall have no vote in any
219 decision of the commission. All hearings of the commission held
220 pursuant to this subsection shall be open. At such hearing the
221 commission shall have the same powers as under subsection (a) of this
222 section and the respondent shall have the right to be represented by
223 legal counsel, the right to compel attendance of witnesses and the
224 production of books, documents, records and papers and to examine
225 and cross-examine witnesses. Not later than ten days prior to the
226 commencement of any hearing conducted pursuant to this subsection,
227 the commission shall provide the respondent with a list of its intended
228 witnesses. The judge trial referee shall, while engaged in the discharge
229 of his duties as provided in this subsection, have the same authority as
230 is provided in section 51-35 over witnesses who refuse to obey a
231 subpoena or to testify with respect to any matter upon which such
232 witness may be lawfully interrogated, and may commit any such
233 witness for contempt for a period no longer than thirty days. The
234 commission shall make a record of all proceedings pursuant to this
235 subsection. The commission shall find no person in violation of any
236 provision of this part except upon the concurring vote of [five] seven
237 of its members. Not later than fifteen days after the public hearing
238 conducted in accordance with this subsection, the commission shall
239 publish its finding and a memorandum of the reasons therefor. Such
240 finding and memorandum shall be deemed to be the final decision of
241 the commission on the matter for the purposes of chapter 54. The
242 respondent, if aggrieved by the finding and memorandum, may
243 appeal therefrom to the Superior Court in accordance with the
244 provisions of section 4-183.

245 Sec. 8. Subsection (b) of section 1-99 of the general statutes is
246 repealed and the following is substituted in lieu thereof (*Effective from*
247 *passage*):

248 (b) Notwithstanding the provisions of subsection (a) of this section,
249 the commission may, after a hearing conducted in accordance with
250 sections 4-176e to 4-184, inclusive, upon the concurring vote of [five]

251 seven of its members, impose a civil penalty not to exceed ten dollars
252 per day upon any registrant who fails to file any report, statement or
253 other information as required by this part. Each distinct violation of
254 this subsection shall be a separate offense and, in case of a continued
255 violation, each day thereof shall be deemed a separate offense. In no
256 event shall the aggregate penalty imposed for such failure to file
257 exceed two thousand dollars.

258 Sec. 9. (NEW) (*Effective July 1, 2004*) (a) Notwithstanding any
259 provision of the general statutes, the appropriations recommended for
260 the State Ethics Commission, as established in section 1-80 of the
261 general statutes, as amended by this act, shall be the estimates of
262 expenditure requirements transmitted to the Secretary of the Office of
263 Policy and Management by the executive director of the commission
264 and the recommended adjustments and revisions of such estimates
265 shall be the recommended adjustments and revisions, if any,
266 transmitted by said executive director to the Office of Policy and
267 Management.

268 (b) Notwithstanding any provision of the general statutes, the
269 Governor shall not reduce allotment requisitions or allotments in force
270 concerning the State Ethics Commission.

271 Sec. 10. (NEW) (*Effective July 1, 2004*) (a) Notwithstanding any
272 provision of the general statutes, the appropriations recommended for
273 the State Elections Enforcement Commission, as established in section
274 9-7a of the general statutes, shall be the estimates of expenditure
275 requirements transmitted to the Secretary of the Office of Policy and
276 Management by the executive director of the commission and the
277 recommended adjustments and revisions of such estimates shall be the
278 recommended adjustments and revisions, if any, transmitted by said
279 executive director to the Office of Policy and Management.

280 (b) Notwithstanding any provision of the general statutes, the
281 Governor shall not reduce allotment requisitions or allotments in force
282 concerning the State Elections Enforcement Commission.

283 Sec. 11. (NEW) (*Effective July 1, 2004*) (a) Notwithstanding any
 284 provision of the general statutes, the appropriations recommended for
 285 the Freedom of Information Commission, as established in section 1-
 286 205 of the general statutes, shall be the estimates of expenditure
 287 requirements transmitted to the Secretary of the Office of Policy and
 288 Management by the executive director of the commission and the
 289 recommended adjustments and revisions of such estimates shall be the
 290 recommended adjustments and revisions, if any, transmitted by said
 291 executive director to the Office of Policy and Management.

292 (b) Notwithstanding any provision of the general statutes, the
 293 Governor shall not reduce allotment requisitions or allotments in force
 294 concerning the Freedom of Information Commission.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>
Sec. 4	<i>from passage</i>
Sec. 5	<i>from passage</i>
Sec. 6	<i>from passage</i>
Sec. 7	<i>from passage</i>
Sec. 8	<i>from passage</i>
Sec. 9	<i>July 1, 2004</i>
Sec. 10	<i>July 1, 2004</i>
Sec. 11	<i>July 1, 2004</i>

APP *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Ethics Com.	GF - Cost	\$3,500	\$3,500
Elect. Enforcement Com.	GF - None	None	None
Freedom of Inf. Com.	GF - None	None	None
Ethics Com.	GF - None	None	None

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill prohibits the secretary of the Office of Policy and Management from reducing the budgets requested by the State Ethics Commission, the State Elections Enforcement Commission, and the Freedom of Information Commission. The bill also states that the Governor shall not reduce the allotment requisitions of said commissions.

The bill increases the membership of the State Ethics Commission from seven to nine. The State Ethics Commission will incur additional per diem, mileage and meal reimbursement expenses estimated to be \$3,500 annually with the addition of the two commissioners.

OLR Bill Analysis

sSB 586

**AN ACT CONCERNING THE STATE ETHICS, ELECTIONS
ENFORCEMENT AND FREEDOM OF INFORMATION
COMMISSIONS****SUMMARY:**

This bill requires the Office of Policy and Management (OPM) secretary to submit to the legislature without change the estimates of expenditure requirements the office receives from the executive directors of the State Ethics, State Elections Enforcement, and Freedom of Information commissions. It also prohibits the governor from reducing their budgets. This budget protection appears to be available now only for the legislative branch budget as transmitted by the Office of Legislative Management.

The bill increases, from seven to nine, the membership on the State Ethics Commission. It requires the majority leaders in the House and Senate to each appoint one new member from a list of nominees submitted by a citizen group of their choosing with an interest in government. Beginning October 1, 2004, the bill requires one of the governor's three appointments to the commission to represent such a group of his choosing. By law, the other appointing authorities are the Senate president pro tempore and minority leader (one each), and the House speaker and minority leader (one each). Under the bill, the majority leader's appointees serve two- and four-year terms, respectively. If they are reappointed, they, like other commission members who are reappointed, serve four-year terms.

The bill makes corresponding changes to reflect the increase in membership as shown in Table 1.

**Table 1: Corresponding Changes Mandated by Increase in
Commission Size**

<i>Action</i>	<i>Current Law</i>	<i>Bill</i>
Maximum members from the same	4	5

political party		
Members needed to form a quorum	5	7
Members required to call a meeting	4	5
Concurring votes needed to issue an advisory opinion or find probable cause of a code violation	4	5
Concurring votes needed to find a code violation or impose a civil penalty	5	7

EFFECTIVE DATE: Upon passage, except for the budgetary provisions, which are effective July 1, 2004

BACKGROUND

Legislative History

On April 6, the Senate referred the bill (File 367) to the Appropriations Committee, which removed the provision that guaranteed the commissions' funding at the previous year's level plus inflation and a possible 2% annual salary increase.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 16 Nay 1

Appropriations Committee

Joint Favorable Substitute

Yea 38 Nay 0